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STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

In re:

First Option Mortgage, LLC,
Respondent.

NOTICE OF INTENT TO IMPOSE
FINE AND NOTICE OF RIGHT TO
REQUEST HEARING

The licensing and regulation of mortgage brokers, mortgage bankers and escrow agencies in the State of Nevada is governed by Chapter 645B, Chapter 645E and Chapter 645A of the Nevada Revised Statutes (hereinafter "NRS"), respectively, and the regulations promulgated thereunder. The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter the "Division") has the general duty to exercise supervision and control over mortgage brokers, mortgage bankers and escrow agencies pursuant to these chapters. Pursuant to that authority, the Division makes the following Factual Allegations, Violations of Law, and Order, as follows:

FACTUAL ALLEGATIONS

1. First Option Mortgage, LLC (hereinafter "Respondent") is a foreign limited liability company. Currently, Respondent's status with Nevada Secretary of State is "active."
2. Pursuant to NRS Chapter 645B, Respondent was issued a mortgage broker license on June 3, 2005. Currently, Respondent's status with the Division is "active."
3. Based upon information and belief, at all relevant times herein mentioned, Respondent conducted mortgage lending activity in the State of Nevada out of its office located at 3800 Howard Hughes Parkway, Suite 1220, Las Vegas, Nevada 89169.
4. On February 21, 2008, the Division issued an Order Imposing Fine and Notice of Right to Request Hearing ("2008 Order") against Respondent on account of unlicensed

1 mortgage agent activity and Respondent's failure to exercise reasonable supervision over the
2 activities of his mortgage agents, in violation of NRS 645B.460(1)(b)(1),(2) and NRS
3 645B.670(2)(q). A true and correct copy of the 2008 Order is attached hereto as **Exhibit "A"**
4 and incorporated herein by reference as though set forth in full.

5 5. Pursuant to NRS 645B.400, "A person shall not act as or provide any of the
6 services of a mortgage agent or otherwise engage in, carry on or hold himself out as engaging
7 in or carrying on the activities of a mortgage agent unless the person has a license as a
8 mortgage agent..."

9
10 6.. Adan Xavier Saldana ("Saldana") was initially registered with the Financial
11 Institutions Division on September 28, 2004, and was subsequently licensed by the Division
12 as a mortgage agent pursuant to NRS Chapter 645B.

13 7. Pursuant to NRS 645B.430(2), Saldana's mortgage agent license was cancelled on
14 August 6, 2009 for failure to renew.

15 8. Saldana's status with the Division was "license canceled" continuously from
16 August 6, 2009 to November 12, 2009.

17
18 9. At all relevant times herein mentioned, Saldana was associated with, or employed
19 by, Respondent as a mortgage agent and conducted mortgage lending activity relating to
20 properties in Nevada on its behalf.

21 10. Pursuant to NRS 645B.450, "(a) mortgage broker shall not associate with or
22 employ a person as a mortgage agent or authorize a person to be associated with the
23 mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division
24 pursuant to NRS 645B.410...." See, NRS 645B.450(2).

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26 11. Pursuant to NRS 645B.060, with limited exception, the Division is charged with
27 conducting "...an annual examination of each mortgage broker doing business in this
28 State...." See, NRS 645B.060(2)(d).

12. During an annual examination of Respondent's books and records which commenced on November 3, 2009, the Division discovered that that from August 6, 2009 to November 12, 2009, the period during which Saldana's mortgage agent license was cancelled, Saldana originated and closed two mortgage loans while associated with, or employed by, Respondent. Saldana's unlicensed mortgage agent activity included completing and executing a Uniform Residential Loan Application ("1003") on August 17, 2009, for borrower BJ and completing and executing a 1003 on August 25, 2009, for borrowers JC and JM.

13. At the time of Saldana's unlicensed mortgage agent activity, NRS 645B.670 provided that, "(f)or each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker...(d)oes not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner...." See, NRS 645B.670(2)(c).

VIOLATIONS OF LAW

After investigating this matter, it has been determined that from August 6, 2009, to November 12, 2009, the period during which Saldana's mortgage agent license was continuously cancelled:

a. Saldana originated and closed two mortgage loans while associated with, or employed by, Respondent; and

b. Respondent associated with or employed Saldana as a mortgage agent or authorized Saldana to be associated with or employed by Respondent as a mortgage agent, in violation of NRS 645B.450(2) and NRS 645B.670(2)(c).

ORDER

NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS, pursuant to NRS 645B.750, that upon written application to the Division within **twenty (20) days** of the date of this Order, Respondent shall be entitled to a hearing with regards to the contents of this Order referenced below. At that hearing the Division will seek:

a. The imposition of an administrative fine against Respondent in the amount of Ten Thousand Dollars and No Cents (\$10,000.00), payable to the Division on account of Respondent's violation of Chapter 645B of NRS (which repeats the violation of NRS Chapter 645B for which the 2008 Order (Exhibit "A") was issued), the Division's administrative costs in the amount of One Hundred Eighty Dollars and No Cents (\$180.00) as well as the Division's attorney's fees, if any, incurred herein, each to be proven at the hearing; and

b. Respondent's payment, in full, of the administrative fine, costs and fees to the Division within thirty (30) days of entry of the Final Order.

Should Respondent request a hearing, Respondent is advised of the following:

a) Respondent is entitled to be represented by legal counsel at its own cost and expense; b) At any hearing Respondent shall be entitled to respond and to present evidence and argument on all issues involved; c) Requests may be made to the Commissioner for the issuance of subpoenas; however, the Commissioner may request the proposed testimony of any such person prior to the issuance of the subpoena; and d) Unless precluded by law, the parties may agree to an informal resolution or settlement prior to any hearing.

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1 Should Respondent not request a hearing within **twenty (20) days** of the date of this
2 Order, the Division will enter a Final Order in this matter against Respondent, as otherwise
3 required by law.

4 Dated this 5th day of March, 2010.

5 State of Nevada
6 Department of Business and Industry
7 Division of Mortgage Lending

8 By: Joseph L. Waltuch
9 Joseph L. Waltuch, Commissioner

EXHIBIT “A”

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

* * *

In re:
FIRST OPTION MORTGAGE, LLC,
Respondent.

FINAL ORDER

The State of Nevada, Department of Business and Industry, Division of Mortgage Lending Division (hereinafter, the "DIVISION"), having served the Respondent, FIRST OPTION MORTGAGE, LLC, (hereinafter, "RESPONDENT") on February 22, 2008, with its Order Imposing Fine and Notice of Right to Request Hearing, attached hereto as Exhibit "1" and incorporated herein by reference, which notified RESPONDENT that a final order would issue in this matter unless, within twenty (20) days of entry and receipt of said Order, RESPONDENT requested a hearing to contest the charges against it, with said request to be made in writing, and;

Said Order having been sent to RESPONDENT via certified mail and received by RESPONDENT on February 25, 2008, and;

RESPONDENT having failed to request a hearing in this matter, and good cause appearing:

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1 IT IS HEREBY ORDERED that, pursuant to NRS 645B.670, RESPONDENT will be
2 subject to an administrative fine in the amount of TEN THOUSAND DOLLARS (\$10,000.00).

3 IT IS FURTHER ORDERED that the sum of said administrative fine be paid in full within
4 thirty (30) days of entry of the instant Order.

5 Dated this 3rd day of April, 2008.

6
7 STATE OF NEVADA
8 DEPARTMENT OF BUSINESS AND INDUSTRY
9 DIVISION OF MORTGAGE LENDING

10 By: Joseph L. Waltuch
11 JOSEPH L. WALTUCH, COMMISSIONER

EXHIBIT “1”

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

* * *

In re:

FIRST OPTION MORTGAGE, LLC,

Respondent.

**ORDER IMPOSING FINE AND
NOTICE OF RIGHT TO REQUEST HEARING**

The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the "DIVISION") has the general duty to exercise supervision and control over mortgage brokers, mortgage agents and mortgage brokering activity. See, NRS 645B.060(1), NRS 645B.690 (1)(a) and NRS 645B.670. Pursuant to that authority, the DIVISION makes the following Factual Allegations, Violations of Law, and Order as follows:

FACTUAL ALLEGATIONS

1. FIRST OPTION MORTGAGE, LLC (hereinafter, "RESPONDENT") is a licensed mortgage broker operating within the State of Nevada. RESPONDENT was issued a mortgage broker's license pursuant to Chapter 645B of the Nevada Revised Statutes on June 3, 2005.

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1 2. On July 30, 2007, the DIVISION received a Complaint from two (2) individuals
2 (hereinafter, the "COMPLAINANTS") with regard to a "Loan Officer" named Emilio Sandoval
3 (hereinafter, "SANDOVAL"). Said Complaint alleged misrepresentation in the process of
4 originating a loan for the COMPLAINANTS, which occurred between August 11 and September
5 11, 2006.

6 3. Specifically, the COMPLAINANTS alleged that they had asked to be placed into a
7 loan product which did not include "negative amortization", where any deficiencies in monthly
8 mortgage payments are added to the loan balance, thereby reducing equity (i.e., the property
9 gets less valuable with the passage of time, not more so).

10 4. The COMPLAINANTS further alleged that SANDOVAL assured them their loan
11 would not include such a feature. The COMPLAINANTS also alleged that SANDOVAL insisted
12 that the closing on their property occur at the COMPLAINANTS' home, rather than at a
13 business office. Finally, the COMPLAINANTS alleged that they were, despite their preferences,
14 placed into an Option Adjustable Rate Mortgage Loan (i.e., an "Option ARM"), which then led to
15 negative amortization of their loan balance.

16 5. Pursuant to NRS 645B.060, the DIVISION is charged with conducting "...such
17 investigations as may be necessary to determine whether any person has violated any provision
18 of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner."
19 See, NRS 645B.060(2)(c).

20 6. Pursuant to NRS 645B.060, the DIVISION is further charged with conducting
21 "...such other examinations, periodic or special audits, investigations and hearings as may be
22 necessary and proper for the efficient administration of the laws of this State regarding
23 mortgage brokers and mortgage agents..." See, NRS 645B.060(2)(e).

1 7. After receiving the above-described Complaint regarding RESPONDENT, the
2 DIVISION conducted an investigation of the allegations in question. This investigation revealed
3 the following:

4 a. In completing the loan application process, the COMPLAINANTS never
5 met with RESPONDENT or its qualified employee, John Downs (hereinafter, "DOWNS"). The
6 COMPLAINANTS dealt with SANDVOAL and no one else.

7 b. DIVISION interviews with DOWNS revealed that SANDOVAL was a "Loan
8 Officer in training" with the RESPONDENT
9

10 c. As a matter of RESPONDENT'S policy, DOWNS would generally conduct
11 the initial meeting with new clients, explain rates and have them execute necessary disclosures.
12 After this had been completed, DOWNS would then turn the file over to SANDOVAL for
13 processing of the loan and interacting with the borrowers. DOWNS had no specific recollection
14 of the transaction about which the RESPONDENTS complained.

15 d. The DIVISION also learned that SANDOVAL first began working for
16 RESPONDENT in February, 2006. A review of the DIVISION'S records reveals that at the time
17 of the transaction involving the COMPLAINANTS (August – September 2006), SANDOVAL was
18 not licensed as a mortgage agent in the State of Nevada. Thereafter, SANDOVAL became a
19 licensed mortgage agent on October 25, 2006 and ceased working for RESPONDENT
20 altogether on November 15, 2006.
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22 e. RESPONDENT classified SANDOVAL as a "loan officer in training", during
23 his tenure there.
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1 f. Further discussions with the COMPLAINANTS revealed the following as to
2 their interactions with SANDOVAL:

3 1) SANDOVAL held himself out to them as a loan officer, at every
4 stage of the COMPLAINANTS' transaction with RESPONDENT.

5 2) The COMPLAINANTS were unaware that SANDOVAL was not a
6 licensed mortgage agent.

7 3) SANDOVAL never mentioned that he lacked either the training or
8 the licensure to handle the COMPLAINANTS' transaction.

9 4) The COMPLAINANTS initially met SANDOVAL at his office on
10 RESPONDENT'S premises, where SANDOVAL'S office door bore his nameplate. SANDOVAL
11 then presented the COMPLAINANTS with a business card identifying himself as a loan officer.

12 8. Pursuant to NRS 645B.460, "...a mortgage broker shall exercise reasonable
13 supervision over the activities of his mortgage agents. Such reasonable supervision must
14 include, as appropriate..." [t]he establishment of a system to review, oversee and inspect the
15 activities of his mortgage agents, including, without limitation, [t]ransactions handled by the
16 mortgage agents pursuant to this chapter, [c]ommunications between his mortgage agents
17 and a party to such a transaction..." See, NRS 645B.460(1)(b)(1), (2).

18 9. Pursuant to NRS 645B.670, "...for each violation committed by a mortgage
19 broker, the Commissioner may impose upon the mortgage broker an administrative fine of not
20 more than \$10,000, may suspend, revoke or place conditions upon his license, or may do
21 both, if the mortgage broker, whether or not acting as such... [h]as failed to exercise
22 reasonable supervision over the activities of a mortgage agent as required by NRS
23 645B.460..." See, NRS 645B.670(2)(q).

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11. The DIVISION further finds that, by virtue of RESPONDENT'S failure to supervise SANDOVAL'S activities, RESPONDENT has also violated NRS 645B.670(2)(q).

1. After investigating this matter, it has been determined that RESPONDENT has failed to adopt policies and procedures for the supervision of its employee, SANDOVAL, thereby violating NRS 645B.460(1)(b)(1) and (2), and in doing so, failed to supervise its agent, representing a separate violation of NRS 645B.670(2)(q).

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that, pursuant to NRS 645B.670, RESPONDENT will be subject to an administrative fine in the amount of TEN THOUSAND DOLLARS (\$10,000.00);

IT IS FURTHER ORDERED that the sum of said administrative fine be paid in full within **thirty (30) days** of entry of the instant Order;

IT IS FURTHER ORDERED that, upon the DIVISION'S receipt of the sum of said administrative fine, this matter will be deemed concluded;

IT IS FURTHER ORDERED that, pursuant to NRS 645B.750, upon written application to the DIVISION, RESPONDENT shall be entitled to a hearing with regard to the contents of the instant Order. Should RESPONDENT not request a hearing within **twenty (20) days** of the receipt of the instant Order, the DIVISION will enter a Final Order in this matter, as required by NRS 645B.750(2).

Dated this 21st day of February, 2008.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING**

By: Joseph L. Waltuch
JOSEPH L. WALTUCH, COMMISSIONER

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry,
Division of Mortgage Lending, and that on April 4, 2008, I deposited in the U.S. mail, postage
prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of
the foregoing, FINAL ORDER for FIRST OPTION MORTGAGE LLC, addressed as follows:

John Downs
First Option Mortgage LLC
3800 Howard Hughes Parkway, Ste. 1220
Las Vegas, NV 89169

Certified Receipt Number: 7006 2760 0000 0866 6613

DATED this 4th day of April, 2008

By: 

Employee of the Division

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on , March 8, 2010, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, NOTICE OF INTENT TO IMPOSE FINE AND NOTIVE OF RIGHT TO REQUEST HEARING for FIRST OPTION MORTGAGE, LLC, addressed as follows:

Phillip Aurich
First Option Mortgage
3800 Howard Hughes Parkway, Suite 1220
Las Vegas, NV 89169

Certified Receipt Number: 7006 2760 0000 0876 4388

Kurt Nikolai
First Option Mortgage
400 Galleria Parkway, Suite 1600
Atlanta, GA 30339

Certified Receipt Number: 7006 2760 0000 0876 4371

DATED this 5th day of March, 2010

By: Susan Slack
Employee of the Division